

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION

LUIS VASQUEZ,

Petitioner,

VS.

RICK THALER,

Respondent.

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CIVIL ACTION NO. C-11-242

**OPINION AND ORDER DENYING PETITIONER'S MOTION FOR LEAVE TO  
PROCEED *IN FORMA PAUPERIS*, FOR APPOINTMENT OF COUNSEL, AND  
FOR RELEASE ON BOND PENDING APPEAL**

**Background**

On March 19, 2012, final judgment denying relief to petitioner was entered (D.E. 32, 33). On April 19, 2012, petitioner timely filed a motion for reconsideration, which was treated as a motion pursuant to FED. R. CIV. P. 59(e) (D.E. 39). Petitioner filed notice of appeal on May 24 and June 6, 2012 (D.E. 43, 48), and was granted leave to appeal *in forma pauperis* on August 1, 2012 (D.E. 53). His motion for reconsideration was denied on August 3, 2012 (D.E. 54). On June 21, 2012, petitioner filed a motion for authorization to file a successive petition for habeas corpus, which was transferred to the Fifth Circuit Court of Appeals on June 22, 2012 (D.E. 50).

On August 8, 2012, petitioner filed a motion for appointment of counsel, motion to proceed *in forma pauperis*, and a motion to be placed on Community Supervision (D.E. 56-1, 56-2, 56-3).

Petitioner has not explained why he filed a second motion for leave to proceed *in forma pauperis*. His motion for leave to appeal *in forma pauperis* was granted on August 1, 2012. The motion (D.E. 56-2) is denied as moot.

Petitioner moves for appointment of counsel. Final judgment has been entered in this case. There are no matters pending before the District Court for which appointment of counsel is necessary. The motion (D.E. 56-1) is denied without prejudice. Petitioner may ask the Fifth Circuit Court of Appeals to appoint a lawyer for his appeal.

Petitioner also seeks release on community supervision. His motion is treated as a motion requesting the setting of bail pending appeal. While the District Court has the inherent authority to set bail for a state prisoner while his habeas corpus petition is pending, *See In re Wainwright*, 518 F.2d 173, 174 (5th Cir 1975) (citations omitted), his habeas action is no longer pending in this court. Final Judgment has been entered denying him relief. No infirmities regarding petitioner's conviction have been noted. There is nothing pending before the District Court. Petitioner's motion for release to community supervision, treated as a motion for release on bail pending appeal (D.E. 56-3) is denied.

ORDERED this 23rd day of August, 2012.

  
B. JANICE ELLINGTON  
UNITED STATES MAGISTRATE JUDGE